

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

CHARLES EFE HENDERSON and
CELESTE WAKELY,

Plaintiffs,

v.

Case No. 11-CV-12430
HON. GEORGE CARAM STEEH

MARSHALLS DEPARTMENT STORES
and TJX COMPANIES, INC.,

Defendants.

ORDER GRANTING DEFENDANTS' MOTION FOR SUMMARY JUDGMENT (#8)

On October 26, 2010, plaintiffs filed an action in Washtenaw County District Court alleging race discrimination in violation of Michigan's Elliott-Larsen Civil Rights Act based on a shopping experience at Marshalls. On January 31, 2011, the case was transferred to Washtenaw County Circuit Court. After the amount in controversy was amended to exceed \$75,000, defendants¹ filed a notice of removal in this court based on diversity jurisdiction. On February 29, 2012, defendants filed a motion for summary judgment. In the motion for summary judgment, defendants argue (1) plaintiffs cannot establish a *prima facie* claim of discrimination; (2) Marshalls has articulated legitimate, non-discriminatory

¹Apparently, plaintiffs incorrectly identify defendant Marshalls of MA, Inc. as two defendants – Marshalls Department Stores and TJX Companies, Inc. Although the court is now aware of this issue, the court will continue to refer to the motion as filed by defendants, rather than defendant, for the sake of remaining consistent with the case caption.

reasons for their actions; and (3) plaintiffs cannot establish pretext. As to the *prima facie* case, defendants argue plaintiffs were not refused the opportunity to purchase goods ordinarily provided by Marshalls, plaintiffs cannot identify any similarly situated individuals treated more favorably, and plaintiffs were not treated in such a markedly hostile manner that a reasonable person would find it objectively discriminatory. On March 8, 2012, the court issued an order scheduling a hearing for April 30, 2012 and setting a deadline of March 26, 2012 for plaintiffs' response brief. Plaintiffs failed to file a response. On April 12, 2012, defendants filed a reply noting that plaintiffs failed to oppose the motion for summary judgment. The court finds that oral argument is not necessary. See Local Rule 7.1(f). For the reasons set forth in defendants' motion for summary judgment, the court GRANTS the motion and DISMISSES plaintiffs' claims.

IT IS SO ORDERED.

Dated: April 16, 2012

s/George Caram Steeh
GEORGE CARAM STEEH
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

Copies of this Order were served upon attorneys of record on April 16, 2012, by electronic and/or ordinary mail.

s/Josephine Chaffee
Deputy Clerk